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Appointment of Agent

Enclosed herewith is a "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address" form (Form No. PTO/SB/82) to be registered in respect of the above named application. The form has been signed by the inventor/Applicant, namely Nessim N. ISA, and replaces the previous Agents of Record (Client No. 23477) with the Agents of Client No. 58388. Confirmation of the registration of this form is respectfully requested.

Remarks

In the present response, the Applicant has amended page 2 in order to correct a clerical error. Also, the claims of record have been amended to correct an informality identified by the Examiner, and to better define the scope of the present invention. Further, the amended claims more clearly claim the subject matter that the Applicant regards as the invention. In particular, Claims 2 and 3 have been cancelled, and the subject matter of these claims has been incorporated into amended Claim 1.

These amendments are discussed in more detail hereinbelow, and it is to be noted that the Applicant's comments with respect to the Action are based on the amended set of claims presented herein.

Specification

The Applicant has amended page 2, line 10 in order to replace the word "collect" with "collected", as suggested by the Examiner. An amended paragraph showing the changes is included with this response.

Claim Objections

Claims 7 and 8 have been amended to replace the word "collector" with "collection means" as suggested by the Examiner.

Rejection under 35 U.S.C. § 112

Claim 6 has been amended to replace "the collection means" on line 4 of the claim with "a

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collection means". The remainder of the claim has also been similarly amended in order to provide antecedent basis for this limitation in the claim. As a result, the Applicant contends that the rejection under Section 112 has been obviated.

Rejection Under 35 USC 102

Claims 1-2 and 4 currently stand as being rejected under 35 USC 102(b) as being anticipated by US Patent No. 5348023 ("McLucas"). It is noted that Claim 1 has been amended to incorporate the subject matter of Claims 2 and 3 (which claims have been cancelled), and therefore, it can now be contended that amended Claim 1 is not anticipated by McLucas. However, the Applicant also notes that the McLucas device is used as a curetting device, in that it includes sharp edges which are used to cut off the samples which are to be collected. After cutting the sample, the user is expected to collect the sample within the bowl of the curetting device. As a result, while collecting the sample, the user must take care not to cause any additional damage from the sharp edges of the McLucas curetting device.

In contrast, the present invention is a smooth sided curetting cuttings receiver that is not used to cut the samples to be collected. It is merely used to collect the samples cut by other curetting devices. As such, the device of the present invention can be used in combination with a wide variety of shapes and sizes of curetting devices. Further, the present device can be moved from one location to another without fear of accidental cutting or scraping. Additionally, with its truncated front surface, it is particularly well suited to be positioned resting against a tissue to be sampled, and it is in optimum position for a curetted sample to fall or to be placed within the bowl of the curetting receiver of the present invention.

The present device is thus particularly well adapted to avoid the difficulties that would be encountered when using a device such as McLucas which has sharp edges, is poorly adapted to both cut and collect a sample, and which must be carefully moved from location to location in order to avoid accidental cutting or scraping. In contrast, the present device is non-invasive in that it can be easily manipulated to a variety of positions without fear of accidental cutting or scrapping, and is particularly well suited for being placed in optimal position to collect the samples which are cut using other curetting devices.

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The Examiner comments that eliminating the blunt circumferential edge of a typical curette for cutting or scraping does not render the claim patentable. However, the Applicant respectfully disagrees with this comment. The McLucus device has sharp circumferential edges (see column 2, lines 12 to 17) which would be expected in any curetting device. Having a sharp edge is an essential feature of such a device. The present invention, however, has no need for such sharp edges since it is to be used strictly as a receiver. With this device, the user can utilize smaller curetting devices than the McLucus device for safety reasons, and this can ensure a safer technique since the curetting device is smaller, and the larger curetting receiver of the present invention can be used in combination with the curetting device, while being able to be safely moved from position to position without risk.

The Examiner is urged to note that these types of devices are designed for a specific function, and that minor changes in the device and/or the operation of the device can provide significant safety or utilization advantages. As such, the realization that a separate curetting receiver would have improved performance over traditional curetting devices which attempt to both cut and collect the sample, is a patentable advancement in this technology.

As such, the Applicant has done more than just eliminate some features or elements of the prior art, but has instead, replaced those essential features of the prior art device with replacement elements that provide beneficial advantages.

As such, the Applicant contends that the McLucus disclosure does not anticipate the present invention

Claims 1-2 and 4-5 also stand rejected under 35 USC 102(b) as being anticipated by US Patent No. 4044770 ("Ocel"). Again, it is noted that amended Claim 1 now incorporates the subject matter of Claims 2 and 3, and therefore cannot be anticipated by Ocel. However, the Applicant provides the following additional comments.

Ocel does not provide a curettings receiver, contrary to the Examiner's comments. In fact, Ocel provides a curetting device which is adapted to be used in a person's ear. At one end, the Ocel device has a simple metal wire "loop" which is used to scrape the inside of a person's ear. However, there is no suggestion in the Ocel document that the scrapings are to be collected by the device. As such, the Applicant contends that Ocel provides merely a curetting device and not a receiver. Ocel

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does not provide any means for collection of the curetting samples, nor would collection of any samples in the "loop" be expected.

As such, the "concave, spoon shaped" loop 15 of the Ocel device would not be expected to act as a collection means, contrary to the Examiner's comments.

As such, the Ocel device does not anticipate the present invention; particularly in view of the amendments made herein.

Claims 1-2 also stand rejected as being anticipated under 35 USC 102(e) by US Patent No. 6949108 ("Holmes"). The Applicant respectfully traverses this rejection. Again, though, it is noted that amended Claim 1 now incorporates the subject matter of Claims 2 and 3, and therefore cannot be anticipated by Ocel. However, the Applicant provides the following comments.

Holmes provides a curetting device which has removal tips. Otherwise, it is clear that the Holmes device is similar to the McLucas device in that the outer edges of the spoon shaped collection means are sharpened. In fact, as indicated in column 3, line 3, one purpose of the Holmes device is the ability to remove the tip when the curetting device becomes "dulled". As such, Holmes does not provide a curetting receiver that can be used to receive the samples cut which have been cut with a curetting device.

As such, the comments made hereinabove with respect to the McLucas device are equally applicable to the Holmes document. Therefore, the Applicant contends that the McLucas device cannot anticipate the present invention.

Claims 1-5 also stand rejected as being anticipated under 35 USC 102(b) by US Patent No. 3277714 ("Crandell"). The Applicant respectfully traverses this rejection.

Crandell provides a spoon which has an integral temperature measuring device. There is no suggestion that the Crandell device could be used as a curetting receiver, or that the Crandell device could be used as an endocervical curetting receiver. Crandell merely provides a spoon, and as such, the Applicant contends that this document is directed to non-analogous art. Those interested in determining a better method to accomplish a curveting procedure would not be motivated to use the Crandell spoon since it does not describe any of the benefits provided in the present invention.

There is no suggestion that the Crandell spoon might be used in the environment of the present invention to be used to collection endocervical samples. As such, the Applicant contends that

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the present invention, particularly as presently claimed, is not anticipated by the Crandell disclosure.

In summary, the Applicant contends that the cited documents do not anticipate the present invention and in particular, the invention as claimed in amended Claims 1, 4 and 5. None of the documents anticipate the present invention as currently claimed, and none of prior art documents, when taken alone or in combination would render the present invention as being obvious since none of the cited prior art documents provide an endocervical curetting receiver device which have the advantages of the present invention.

The Applicant notes though, that the construction of the endocervical curetting device, as claimed in Claims 4 and 5, can be made of conventional materials. However, Claims 4 and 5 are dependent on allowable Claim 1, and therefore, are also allowable.

Claims 6 to 8 also stand as being rejected under 35 USC 102(b) as being anticipated by US Patent No. 5527331 ("Kresch"). Again, the Applicant respectfully traverses this objection.

In particular, it is noted that Kresch provides an electrocautary tool and not a curetting device. As such, the device of Kresch is used in an entirely different procedure where there is no need for a curetting receiver device of the present invention. Further, the device of Kresch does not anticipate the present invention since it does not have sharp edges, and relies on electrocautary to remove tissue. Thus, the method described by Kresch does not suffer from the same problems which are of interest in the present invention, and as such, Kresch cannot anticipate the method disclosed in the present invention.

It is also to be noted that the materials released as a result of the use of the electrocautery procedure, are removed from the treatment area by aspiration feature of the Kresch device. It is also noted that these materials are removed in order to ensure that the field of view is kept clear in order for fibre optic viewing to be facilitated. There is no disclosure that the samples are to be collected, and there is no discussion of the difficulties caused by trying to move the cut samples through tubing, such as the samples collecting on the walls of the tubing.

Further, as stated by Kresch, the electrocautery tool can be turned off when not needed, and therefore can be safely moved from one location to another. As such, there is no need for a curvetting receiver of the present device to be used in the method claimed in Claims 6 to 8 of the present invention. Thus, the method claimed in Claims 6 to 8 is not described in the Kresch disclosure, and

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thus, Kresch cannot anticipate, or alternatively make obvious, the present invention.

The additional prior art cited by the Examiner has also been reviewed by the Applicant, but it is not believed that this additional prior art does not anticipate the present invention, and does not render obvious, when considered alone or in combination with any additional prior art, the present invention. As such, the Applicant contends that the present invention is allowable in view of the cited prior art.

Conclusion

In view of the amendments and comments present herein, the Applicant contends that the present application is in condition for allowance, and early notification to that effect is respectfully requested.

Respectfully submitted,
GOWAN INTELLECTUAL PROPERTY



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